



Town Administrator's Office

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Memorandum

Date: December 11, 2014

To: Ad Hoc Land Use Procedures Improvement Committee

From: Matt Wojcik

RE: Minutes of the November 17, 2014 meeting of the LUPI Committee

The following are the proposed minutes from the LUPI Committee meeting of November 17, 2014.

Chairman Matt Wojcik, Town Administrator, called the meeting to order at 6:33 PM in the Town Council chamber of Tiverton Town Hall, 343 Highland Road. All Committee members were present with the exception of the Code Enforcement Official, Chris Synnott and Zoning Board chair Lise Gescheidt, as follows: Town Councilor Brett Pelletier, Town Administrator Matt Wojcik, Town Solicitor Andy Teitz, Planning Board Chair Steven Hughes, and Interim Planner Kate Michaud. Assistant Solicitor Gina DiCenso joined the Committee at the meeting table for purposes of briefing the Committee on her recommendations.

The Committee began with a discussion of the items that had been referred to it for investigation and resolution, where possible. A member of the public noted that the consultant's report of the list of items needs to be cross referenced with handwritten comments submitted during the consultant's list-creating exercise but not necessarily captured since their proponents were not present when the list was generated.

The Committee engaged in a discussion relating to definitions of terms in the Zoning Code and the general need for a Zoning Code update.

Town Solicitor Teitz introduced Assistant Solicitor DiCenso to discuss a list of draft rules for the Municipal Court regarding zoning cases. Ms. DiCenso reviewed the difficulty of trying zoning cases when definitions of permissible uses are unclear. There was general discussion of updating the use table.

Ms. DiCenso noted that the Zoning Code should be clarified to define actions brought under it is criminal, or civil. She discussed how cases come to the Municipal Court and where criminal procedures are more challenging to follow, specifically in the matter of service of process, notice, right of entry by the Zoning Official or Building Official.

Ms. DiCenso noted that the Town's land use officials must be more thorough in asking questions when a proposal for development is tendered. This would include asking for surveys / location of development in detail. There was a general discussion of whether the Town has the resources to truly be proactive rather than reactive on enforcement matters. A need to keep a running log on all complaints to the Code Enforcement Department was noted by several members of the Committee.

The Town Administrator initiated a discussion regarding willful violations, and the possible means to address them. Attorney DiCenso noted that the distinction is more meaningful in the civil context versus criminal. She also noted that RI courts only rarely use punitive damages or injunctions to resolve land use cases where the violation could be considered willful.

There was a general discussion on mandating land surveys should be required or not. A follow-on, related conversation regarding monitoring of pre-existing nonconforming uses ensued.

Discussion continued on the list of issues referred to the Committee, including inconsistent enforcement, problems with the sign ordinance, insufficient definition of uses in the use table, the definition of "hardship" as applied by the Zoning Board for variances, the cost of seeking variances, accommodation of an existing settlement pattern in any given neighborhood, the need for training for land use boards, and greater reliance upon modern electronic interface for permits and information from regulatory offices.

The remainder of the agenda was tabled, to be taken up again at a future meeting of the Committee.

Mr. Hughes moved adjournment and there were numerous seconds, and a unanimous vote to adjourn at 8:32 PM.